

EXHIBIT 5

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 CASE NO. 18-MD-2865 (LAK)

4 IN RE:)
5)
6 CUSTOMS AND TAX ADMINISTRATION OF)
7 THE KINGDOM OF DENMARK)
8 (SKATTEFORVALTNINGEN) TAX REFUND)
9 SCHEME LITIGATION)
This document relates to case nos.)
19-cv-01783; 19-cv-01788; 19-cv-01794;)
19-cv-01798; 19-cv-01918)

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12 C O N F I D E N T I A L

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15 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
16 EXAMINATION OF
17 JOHN VAN MERKENSTEIJN
18 DATE: April 19, 2021

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25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 A Well, the — the securities and the
2 date on which they declared the amount of a
3 dividend was all publicly available. What
4 Solo provided was what the amount of
5 securities that was available to be purchased
6 would be.

7 Q Right.

8 A And then they pulled together the
9 other elements to make sure that the trade
10 had all the components.

11 Q Meaning the hedge and the stock
12 loan?

13 A Right.

14 Q Okay. Would they arrange those
15 components prior to the trade date?

16 A I assume so, because on the trade
17 date you'd want to know all the other
18 elements were available.

19 Q So once the trade date comes, what
20 was it that Mr. Cooper and Mr. Reibeisen had
21 to do other than send the requests out that
22 Solo Capital had already arranged?

23 A Well, I'm not — you know, I wasn't
24 involved in the trading directly. So I don't
25 know what they had to do.

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1 Had you ever heard of Cork Oak
2 prior to interacting with Solo Capital?

3 A No.

4 Q All right. And then, for each of
5 the purchases, the stock lender identified is
6 Gnosis.

7 Is that right?

8 A Yes, I see that.

9 Q And so, was it your understanding
10 that on the trade date, what Mr. Cooper and
11 Mr. Reibeisen would have to do is simply send
12 out the e-mails to these counterparties that
13 Solo had identified and ask them if they can
14 transact in these amounts?

15 MS. MCCARTHY: Objection to form.

16 A Well, I don't know -- yeah, I don't
17 know exactly what they had to do.

18 Q All right. The amount of shares
19 listed here, if one were so inclined to add
20 them up, is a little more than 109 million
21 shares of TDC --

22 A Okay.

23 Q -- which cost a little more than
24 5.6 billion Danish kroner. The price per
25 share on the trade date was 51.35 kroner per